January 18, 2019

Hon. David Osborne, Speaker of the House
Capitol Annex, Room 332
Frankfort, Kentucky 40601

RE: 17-LEC-01

Dear Speaker Osborne:

Thank you for your letter in which you refer to complaints filed with the Legislative Ethics Commission in 2017, and you ask if the Commission "fully considered" all of the issues raised in the complaints. Specifically, you point to a report of deposition testimony offered in a Franklin Circuit Court case by a person who was also a witness in the Ethics Commission case (17-LEC-01).

I have enclosed a copy of the Commission's Final Order in 17-LEC-01, and minutes of the Commission's April 10, 2018 adjudicatory hearing. The Order includes a reference to M.E. (Marissa Espinosa) in paragraph 4, and states that she was the female employee who had initiated the settlement discussion with the legislators against whom the complaints were later filed.

As stated in the Order and in the meeting minutes, Ms. Espinosa was present at the adjudicatory hearing, and was asked by the Commission if she approved of a settlement as proposed by the Commission's Enforcement Counsel, Michael Malone, a retired Assistant Commonwealth's Attorney. Speaking on behalf of Ms. Espinosa, her attorney John Phillips stated that she was agreeable to the settlement as outlined by Mr. Malone.

You ask if there is anything you can do to authorize the Ethics Commission to conduct any further investigation the Commission "may consider necessary". The short answer is "no", Kentucky law does not allow a "relitigating of issues resolved in an earlier proceeding". *See*: Chesley v. Abbott, 524 S.W.3d 471 (Ky. App., 2017).

The Code of Legislative Ethics, at KRS 6.691, authorizes the Commission to refer evidence of criminal violations to the Attorney General, county attorney, or Commonwealth's Attorney for prosecution. The Commission found no such evidence in 17-LEC-01.

With best regards,

John Schaaf